

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**ACTUS, LLC,**

**Plaintiff,**

**v.**

**BANK OF AMERICA CORP., et al.**

**Defendants.**

**CIVIL ACTION NO. 2:09-cv-102-TJW**

**JURY TRIAL DEMANDED**

**UNOPPOSED MOTION FOR EXTENSION OF TIME**

COMES NOW Plaintiff, Actus, LLC (“Actus”) and files this Unopposed Motion for Extension of Time to Respond to Defendant Capital One Financial Corp.’s (“Capital One”) Motion to Dismiss for Failure to State a Claim:

Capital One filed its motion to dismiss on July 13, 2009. (Dkt. 128) Actus’ response is currently due on August 4, 2009. Actus respectfully requests additional time to file its response up to and including August 20, 2009. This extension is not for purposes of delay but to allow adequate time to respond.

Counsel for Actus conferred with counsel for Capital One Financial Corp. and does not oppose the relief requested herein.

Dated: July 31, 2009

Respectfully Submitted,

**ACTUS, LLC**

By: /s/ William E. "Bo" Davis, III

William E. "Bo" Davis III  
Texas State Bar No. 24047416  
**The Davis Firm, PC**  
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**ATTORNEY FOR PLAINTIFF**  
**ACTUS, LLC**

**CERTIFICATE OF CONFERENCE**

The undersigned certifies that he conferred with counsel for Capital One Financial Corp. and that Capital One Financial Corp. does not oppose the relief requested herein.

/s/ William E. "Bo" Davis, III  
William E. "Bo" Davis, III

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic served were served with a true and correct copy of the foregoing by email, on this the 31st day of July, 2009.

/s/ William E. "Bo" Davis, III  
William E. "Bo" Davis, III